

## **Rule 10: Hearing.**

10.01 **Pre-Hearing Conferences.** Before the hearing on the complaint, the Commission or Commission counsel may in its/his/her discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference with a Commissioner or staff member to consider:

- A) The simplification of the issues;
- B) The necessity of amendments to the complaint and answer;
- C) The possibility of obtaining stipulations;
- D) Such other matters as may aid in the disposition of the hearing.

10.02 **Appearance of Parties.** The complainant shall be a party to the proceeding and may be present at the hearing. The respondent may appear at the hearing, examine and cross-examine witnesses and the complainant, and may present witnesses and submit other evidence. Any person who has or claims an interest in the subject of the hearing and in obtaining or preventing relief against the acts or practices complained of may be in the discretion of the hearing examiner permitted to appear for presentation of oral or written arguments within the limits of the law. Any witness may claim the privilege, as set out in the Fifth Amendment to the United States Constitution, to refuse to answer specific questions which may tend to incriminate him/her.

10.03 **Conduct of Hearings.** A hearing shall be conducted consistent with these Rules and Regulations by the full Commission or one or more members thereof or by one or more hearing examiners or any combination of the above who are designated by the Commission for such purpose. If more than one Commissioner or hearing examiner conducts a hearing, one of them shall be designated by the Commission as the presiding member.

10.04 **Time of Hearings.** A hearing shall be conducted at the time and place set forth in the notice of hearing, except that the time of hearing may be extended by the Commission, on application of any party or the Commission Attorney, to such later date as the Commission may determine for good cause shown.

10.05 **Procedure at Hearing.**

10.05(A) The person or persons conducting the hearing shall not be bound by the rules of evidence prevailing in the courts of law and equity, but shall in ascertaining the practices followed by the

respondent, take into account all reliable, probative and substantial evidence, statistical or otherwise, produced at the hearing which may tend to prove the existence of a predetermined pattern, practice or act of unlawful discrimination.

10.05(B) The person or persons conducting a hearing shall have full authority to control the procedures of the hearing, to admit or exclude testimony or other evidence, to rule upon all objections and take such other actions as are necessary and proper for the conduct of such hearing including but not limited to, ordering the appearance of any person and the production of any books, papers, documents or tangible things at the hearing; ruling upon any petition to revoke or modify a subpoena or other demand for discovery pending at the commencement of the hearing; provided, however, that the person conducting the hearing shall make no finding at hearing that respondent has engaged in any unlawful discriminatory practice or that the complaint should be dismissed.

10.05(C) Where hearings are conducted by three or more Commissioners and/or hearing examiners, all rulings and determinations shall be made by majority rule.

10.05(D) Stipulations. Written stipulations may be introduced in evidence, if signed by the person(s) sought to be bound thereby, or by their attorneys. Oral stipulations may be made on the record at open hearings.

10.05(E) Continuation and Adjournments. The person or persons conducting a hearing may continue a hearing from day to day or adjourn it to a later date or to such different place, as is permitted by law, by announcing such action at the hearing, or by appropriate notice to all parties.

10.05(F) Oral Arguments and Briefs. The person or persons conducting a hearing shall permit the parties or their attorneys, the Commission attorney or members of the Commission staff who are presenting the case, and other persons permitted to appear pursuant to Rule 10.02 of the Commission Rules and Regulations to argue orally and/or to file briefs within such time limits as the hearing examiner may determine.

10.05(G) Testimony. The testimony taken at the hearing shall be under oath. A stenographer shall take notes and such notes shall be transcribed and filed with the Commission. Thereafter, in its

discretion, the Commission, upon notice to the complainant and to the respondent, may take further testimony or hear argument.

10.05(H) Improper Conduct. The person or persons conducting a hearing may exclude from the hearing room, or from further participation in the proceeding, any person who engages in disruptive conduct during the hearing.

10.05(I) Representation. Any party to a hearing may be represented by counsel, as set forth in Rule 3.01 of the Commission Rules and Regulations, who may appear on behalf of such party during the hearing. Any party may represent him/herself to the extent authorized by law and Rule 3.01 of the Commission Rules and Regulations. The Commission counsel may represent a party when he/she is directed to do so by the Commission.

10.05(J) Public Hearings. All hearings shall be public unless for good cause the Commission shall decide otherwise.

#### 10.06 **Rules of Evidence**.

10.06(A) Admissibility of Evidence. Subject to the provisions of law and to other provisions of these rules, all relevant evidence is admissible which in the opinion of the hearing officer or hearing Commission member or members is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the hearing officer or hearing Commission member or members shall give consideration to, but (except to the extent required by law) shall not be bound to follow the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the Superior Court of the State of Rhode Island.

10.06(B) Objections. The hearing officer or hearing Commission member or members may, in their discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling.

10.07 **Reopening of Hearing**. At any time after a hearing has been closed but prior to filing of the decision, the Commission may, on its own initiative or upon motion by any party, reopen the proceeding to receive further evidence and/or to hear argument.

10.08 **Proposed Findings of Fact**. Any party may, at the conclusion of a hearing or within such later time as may be fixed, submit to the Commission proposed findings of fact, copies thereof to be served upon each party to the proceeding. These proposed findings of fact must be stated in separately numbered paragraphs which state facts and not arguments. The hearing officer or hearing Commission member or members may allow parties to present written arguments after the conclusion of the hearing.